

JOHN E. URBAN

IBLA 81-796

Decided July 30, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 48131.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: John E. Urban, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

John E. Urban has appealed from the May 29, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared the unpatented Aurora mining claim, CA MC 48131, abandoned and void for failure to file evidence of assessment work or notice of intent to hold the mining claim on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the implementing regulations in 43 CFR 3833.2-1.

Appellant states only that he was unable to complete the assessment work in 1980, and has turned his claim over to Samuel L. Urban and Leon Urban.

[1] The above-cited statute and regulations impose a conclusive presumption of mining claim abandonment for any failure to file the required instruments in the proper BLM office by the date on which they are due. The Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Appellant may wish to consult with BLM about the possibility of relocating the claim.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

